

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Anna Steel	Team: Team # 8	CCRB Case #: 200905728	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/09/2009 2:00 AM	Location of Incident: Emmons Avenue and Bragg Street	Precinct: 61	18 Mo. SOL 10/9/2010	EO SOL 10/9/2010	
Date/Time CV Reported Wed, 04/15/2009 11:15 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/15/2009 11:15 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Nikolaos Stefopoulos	17460	944294	061 PCT
2. SGT Dmitry Durets	00390	921305	061 PCT
3. Officers			061 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daniel Kirk	11290	941225	061 PCT
2. POM Dexter Deonarinesingh	16308	936470	061 PCT
3. POF Jennifer Marrero	25571	928709	061 PCT
4. POM Richard Siedman	23507	942841	061 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Dmitry Durets	Abuse: Sgt. Dmitry Durets supervised the stop of § 87(2)(b) [REDACTED]	
B.SGT Dmitry Durets	Abuse: Sgt. Dmitry Durets supervised the stop of § 87(2)(b) [REDACTED]	
C.POM Nikolaos Stefopoulos	Abuse: PO Nikolaos Stefopoulos threatened to arrest § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED]	
D. Officers	Abuse: Officers searched the car in which § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] were occupants.	

Case Summary

§ 87(2)(b) filed a complaint with the CCRB on April 15, 2009 (encl. 4a – 4b).

On April 9, 2009, at about 11:15 PM, § 87(2)(b) and § 87(2)(b) were approached by Sgt. Dmitry Durets and PO Nikolaos from the 61st Precinct while they were seated in a vehicle at Emmons Avenue and Bragg Street in Brooklyn. The following allegations resulted:

- **Allegation A – Abuse of Authority.** Sgt. Dmitry Durets supervised the stop of § 87(2)(b) § 87(2)(b), § 87(2)(g) § 87(2)(b), § 87(2)(g)
- **Allegation B – Abuse of Authority.** Sgt. Dmitry Durets supervised the stop of § 87(2)(b) § 87(2)(b), § 87(2)(g) § 87(2)(b), § 87(2)(g)
- **Allegation C – Abuse of Authority.** PO Nikolaos Stefopoulos threatened to arrest § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b), § 87(2)(g) § 87(2)(b), § 87(2)(g)
- **Allegation D – Abuse of Authority.** Officers searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. § 87(2)(g) § 87(2)(g)

This case was originally assigned to Investigator Mohr. Following his promotion to the mediation unit, the case was reassigned to Investigator Steel on January 11, 2010.

Results of Investigation

Civilian Statement(s)

Complainant: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) § 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on April 24, 2009 (encl. 5a – 5d). On April 9, 2009, at about 11:15 PM, § 87(2)(b) was with her boyfriend, § 87(2)(b) in a parking lot at Emmons Avenue and Bragg Street in Brooklyn. They were sitting in § 87(2)(b) vehicle, conversing and admiring the view of Sheepshead Bay. § 87(2)(b) had unbuckled the belt on her pants because she was full from dinner. Two officers, identified through the investigation as Sgt. Dmitry Durets and PO Nikolaos Stefopoulos from the 61st Precinct, approached and instructed § 87(2)(b) and § 87(2)(b) to exit the vehicle (**Allegations A and B**). They were escorted to the rear of the vehicle, where § 87(2)(b) was searched by PO Stefopoulos. PO Stefopoulos found a white pill wrapped in a twist of aluminum foil in one of § 87(2)(b) pockets. PO Stefopoulos repeatedly asked § 87(2)(b) and § 87(2)(b) ‘where the drugs were’ and allegedly threatened to arrest them if they did not provide this information (**Allegation C**). § 87(2)(b) alleged that additional officers in plainclothes responded to the scene and searched § 87(2)(b) vehicle, including her pocket book, which was on the passenger’s side seat (**Allegation D**). The investigation found no evidence of such officers as present at the scene. PO Stefopoulos handcuffed § 87(2)(b). Two uniformed officers, identified through the investigation as PO Jennifer Marrero and PO Richard Siedman from the 61st Precinct, responded to the scene. § 87(2)(b) was frisked, searched, and placed in a marked police vehicle. She and § 87(2)(b) were transported

to the 61st Precinct stationhouse and released soon thereafter with summonses for commission of a lewd act in public.

Attempts to Contact Civilians

Victim: § 87(2)(b)

The investigator spoke with § 87(2)(b) on June 3, 2009, at which time § 87(2)(b) stated that he did not want to pursue an investigation regarding the complaints made on behalf (encl. 15a – 15e).

NYPD Statement(s):

Subject Officer: SGT. DMITRY DURETS

- *Sgt. Durets is a § 87(2)(b).*
- *On the day of the incident, Sgt. Durets was the assigned conditions sergeant and worked from 10:00 PM to 6:57 AM with PO Daniel Kirk in plainclothes and an unmarked vehicle.*

CCRB Testimony

Sgt. Durets was interviewed at the CCRB on January 19, 2010 (encl. 7a – 7b). On April 9, 2009, at about 2:00 AM, Sgt. Durets was at Emmons Avenue and Bragg Street in Brooklyn. He and his partners, including PO Daniel Kirk and PO Mikolaos Stefopoulos, were investigating numerous complaints regarding narcotics and prostitution. He walked past the passenger's side of a vehicle and saw § 87(2)(b) performing oral sex on § 87(2)(b). § 87(2)(b) was not wearing pants. Sgt. Durets motioned for PO Stefopoulos, who was in uniform and stationed nearby, to approach. Sgt. Durets shone his flashlight in the passenger's side window of the vehicle. § 87(2)(b) ceased performing oral sex. Sgt. Durets asked § 87(2)(b) why she was not wearing any pants. She explained that she had recently eaten at McDonalds and was full. As soon as Sgt. Durets began speaking with § 87(2)(b) he smelled the distinctive odor of marijuana and saw either a marijuana cigarette or cigar in the ashtray in the middle of the vehicle. § 87(2)(b) and § 87(2)(b) were asked to exit the vehicle and were handcuffed. Sgt. Durets confirmed that it was his intention to place both individuals under arrest. PO Jennifer Marrero and PO Richard Siedman responded to the scene. PO Marrero searched § 87(2)(b) pursuant to her arrest. Either Sgt. Durets or PO Stefopoulos secured the marijuana in the vehicle. Aside from securing the marijuana, the vehicle was not searched. None of the officers repeatedly asked § 87(2)(b) 'where the drugs were' or stated that if they did not tell them where the drugs were, they would be arrested. Sgt. Durets said he would never have informed or threatened § 87(2)(b) and § 87(2)(b) with arrest, as their arrest was a foregone conclusion when he observed them engaged in lewd behavior in public. Aside from the marijuana, no other narcotics were recovered during the incident. § 87(2)(b) and § 87(2)(b) were transported to the 61st Precinct and released with summonses for possession of marijuana and public lewdness.

Subject Officer: PO NIKOLAOS STEFOPOULOS

- *PO Stefopoulos is a § 87(2)(b).*
- *On the day of the incident, PO Stefopoulos was assigned to conditions and worked from 10:00 PM to 6:35 AM with Sgt. Dmitry Durets in uniform and an unmarked vehicle.*

CCRB Testimony

PO Stefopoulos was interviewed at the CCRB on January 19, 2010 (encl. 10a – 10b), at which time he provided a statement which was entirely consistent with Sgt. Durets' testimony. He confirmed that

§ 87(2)(b) was searched pursuant to her arrest by PO Marrero and that, aside from securing the marijuana, the vehicle was not searched. PO Stefopoulos had smelled marijuana as soon as he began speaking with § 87(2)(b) but did not recall who recovered it from the vehicle's ashtray. None of the officers repeatedly asked § 87(2)(b) and § 87(2)(b) 'where the drugs were' or stated that if they did not tell them where the drugs were, they would be arrested. Aside from the marijuana, no other narcotics were found during the incident. PO Stefanopoulos did not recall anything regarding a white pill in a tinfoil twist. § 87(2)(b) and § 87(2)(b) were transported to the 61st Precinct and released with summonses for possession of marijuana and public lewdness.

NYPD Document(s)

61st Precinct Command Log

- According to the command log (encl. 13), § 87(2)(b) and § 87(2)(b) were lodged in the holding cells at 2:40 AM and charged with unlawful possession of marijuana

Summons/Arrest for Incident and Disposition

- § 87(2)(b) was issued summons no. § 87(2)(b) and summons number § 87(2)(b) as a result of the incident (encl. 9; encl. 13). As of the date of the incident, no information regarding these summonses could be found.

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of January 13, 2010, with regard to the incident (encl. 14).

Civilian(s) Criminal History

- As of January 19, 2010, Office of Court Administration records reveal no criminal convictions for § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Subject Officer(s) CCRB History

- Sgt. Durets has been a member of the service for eleven years. In CCRB case 200001691, a frisk and search allegation was substantiated against him and instructions were imposed (encl. 2a – 2b).
- PO Stefopoulos has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 2c).

Conclusion

Identification of Subject Officer(s)

- Sgt. Durets and PO Stefopoulos admitted to interacting with § 87(2)(b) and § 87(2)(b)
- There was no evidence that additional officers in plainclothes responded to the scene and searched § 87(2)(b) vehicle. This allegation has therefore been pleaded against 'officers' from the 61st Precinct.

Investigative Findings and Recommendations

Allegations Not Pleased

Although § 87(2)(b) alleged she was searched by PO Marrero, it is clear that this search was conducted pursuant to her lawful arrest and has therefore not been pleaded

It is undisputed that Sgt. Durets stopped § 87(2)(b). According to Kamins, New York Search & Seizure, p. 2-45 (2007 ed.), a police officer may forcibly stop an individual when he has reasonable suspicion that “the person is committing, has committed or is about to commit a crime” (encl. 1a – 1b), § 87(2)(b), § 87(2)(g).

Allegation B – Abuse of Authority: Sgt. Dmitry Durets supervised the stop of § 87(2)(b)

Allegation C – Abuse of Authority: PO Nikolaos Stefopoulos threatened to arrest § 87(2)(b)

§ 87(2)(b) alleged that PO Stefopoulos repeatedly asked her and § 87(2)(b) 'where the drugs were' and threatened to arrest them if they did not provide this information. PO Stefopoulos denied making any such threats, which Sgt. Durets' corroborated. Sgt. Durets further noted that it was his intention to arrest § 87(2)(b) and § 87(2)(b) as soon as he and PO Stefopoulos observed them engaged in a lewd act, so there would have been no reason to either inform them that they could be arrested or threaten them with arrest. § 87(2)(b), § 87(2)(g)

Allegation D – Abuse of Authority: Officers searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants

§ 87(2)(g)

According to Kamins, New York Search & Seizure, p. 5-81 (2007 ed.), “the police may search a vehicle and any containers found inside when they have probable cause to believe that it contains contraband, a weapon, or evidence of a crime” (encl. 2a – 2b). § 87(2)(b), § 87(2)(g)

Team: _____

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Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date